

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**JOHN FRANKLIN ARBOGAST,**

Plaintiff,

v.

**CIVIL ACTION NO.: 3:18-CV-168  
(GROH)**

**DEBRA MINNIX, ECT Warden  
Administrator, REX SKIDMORE,  
Food Service Air Mart, and TYGART  
VALLEY REGIONAL JAIL,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 13] on April 26, 2019. In his R&R, Magistrate Judge Trumble recommends that the Plaintiff’s Complaint [ECF No. 1] be dismissed with prejudice as to the Tygart Valley Regional Jail and without prejudice as to the other Defendants. ECF No. 13 at 7.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and

of a plaintiff's right to appeal this Court's Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Moreover, "[w]hen a party does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, de novo review is unnecessary." Green v. Rubenstein, 644 F. Supp. 2d 723, 730 (S.D. W. Va. 2009) (citing Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)). "When only a general objection is made to a portion of a magistrate judge's report-recommendation, the Court subjects that portion of the report-recommendation to only a clear error review." Williams v. New York State Div. of Parole, No. 9:10-CV-1533 (GTS/DEP), 2012 WL 2873569, at \*2 (N.D.N.Y. July 12, 2012). Courts have also held that when a party's objection lacks adequate specificity, the party waives that objection. See Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002) (finding that even though a party filed objections to the magistrate judge's R&R, they were not specific enough to preserve the claim for review). Bare statements "devoid of any reference to specific findings or recommendations . . . and unsupported by legal authority, [are] not sufficient." Mario 313 F.3d at 766. Finally, the Fourth Circuit has long held, "[a]bsent objection, we do not believe that any explanation need be given for adopting [an R&R]." Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983) (finding that without an objection, no explanation whatsoever is required of the district court when adopting an R&R).


Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The *pro se* Plaintiff accepted service on April 29, 2019. ECF No. 14. The Plaintiff filed his objections to the

R&R on May 6, 2019. ECF No. 15. However, those objections do not address the factual findings or legal conclusions presented in Magistrate Judge Trumble's R&R. Rather, the Plaintiff merely requests that this Court review his pleadings with leniency, as he is proceeding *pro se*. ECF No. 15 at 1. However, Magistrate Judge Trumble already construed the Plaintiff's pleading in a "liberal fashion" and held the Plaintiff's pleading "to less stringent standards than formal pleadings drafted by lawyers." ECF No. 13 at 3. Because the Plaintiff presents no specific objections, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 13] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITH PREJUDICE** as to the Tygart Valley Regional Jail. The Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE** as to Debra Minnix and Rex Skidmore. The Plaintiff's Motion to Settle [ECF No. 12] is **DENIED**.

This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** May 14, 2019

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE